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April 27, 2012

The National Indian Gaming Commission
1441 L Street, NW Suite 9100
Washington, DC 20005

Dear Commission Members:

Please accept this letter as a supplement to my April 25, 2012 letter concerning the Commission's proposed revisions to 25 CFR Part 543 Minimum Internal Control Standards for Class II Games and Part 547 Minimum Technical Standards for Gaming Equipment Used in the Play of Class II Games. In previous letters dated February 11, 2011, and then again on April 25, 2012, I expressed a concern that the Poarch Band of Creek Indians were operating so-called "electronic bingo" machines that were illegal under Alabama law and therefore in violation of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.* The attached news article removes all doubt that the Tribe is indeed being allowed by this Commission to operate so-called "electronic bingo" machines that are illegal under Alabama law by the clear admission made by Poarch Creek Tribal Treasure Robert McGhee. Once again, I request that you use the opportunity provided by your comprehensive regulatory review to make it clear that the Indian Gaming Regulatory Act does not allow Indian tribes to use gambling devices that are illegal under state law.

If the Commission needs any further comment or information related to this matter, do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink that reads "Luther Strange". The signature is written in a cursive, flowing style.

LUTHER STRANGE
ATTORNEY GENERAL

LS/mrh
Enclosure



Escambia County, Poarch Creeks in battle over property taxes

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Dave Helms, Press-Register
By



(Press-Register file/Mary Hattler)

The interior of Wind Creek Casino on Jan. 14, 2009. As other state casinos have shut down under the threat of raids, Indian-managed facilities are seeing business booming.

It's "non-negotiable" that casinos operated by the Poarch Band of Creek Indians will begin to pay property taxes, according to Escambia County Commission Chairman David Stokes.

But a spokesman for the Poarch Creeks said if that happens — and they think it unlikely — the casinos could no longer operate and thousands of jobs would be lost.

Stokes said Wednesday that the commission began a push for the Poarch Creeks to pay property taxes earlier this month, basing its position on the U.S. Supreme Court case *Carciere v. Salazar*.

"That case, in a nutshell, says that tribal land of even a federally recognized tribe cannot be taken and held in trust by the federal government so as to preclude state and county taxation if you didn't fall under federal jurisdiction prior to 1934," Stokes said.

Poarch Creek officials have differed, saying the court case doesn't apply to their situation.

Casinos operated by the tribe have flourished, operating under federal, and not state, jurisdiction. Two operations, in Atmore and Wetumpka, grew 61 percent in 2010, according to the annual Indian Gaming Industry Report. The Poarch Creeks were federally recognized in 1984.

The Poarch tribe has three gambling venues in Alabama: Creek Casino Montgomery, Creek Casino Wetumpka and Wind Creek Casino & Hotel in Atmore.

Poarch Creek Tribal Treasurer Robert McGhee said Wednesday that the County Commission hadn't gone through proper channels to hold the discussion about taxes. If the commission is successful in its quest,

though, the casinos would have to close since the type of gambling machines they use are illegal under state law, he said.

McGhee noted that several new restaurants and hotels not owned by the tribe have cropped up near the Wind Creek Casino and they are all contributing to the tax base.

The tribe also pays millions in wages plus excise and sales taxes, he said.

Additionally, the Poarch Creeks invest millions annually in Escambia County. The tribe's fire and police departments extend their coverage to neighbors off the reservation in the county. In the last three years, McGhee said, the Poarch Tribal Fire Department has answered more than 2,400 calls, 95 percent of which were from county residents.

Commission Chairman Stokes said millions of dollars in property taxes are at stake, particularly if the county looks to collect the tax retroactively.

"An agreement can be worked out, but they're going to pay the same taxes everyone else pays, that's non-negotiable," Stokes said. "It's the Poarch Creeks who are putting jobs at risk by their opposition to paying taxes like everybody else."

Property taxes are used to pay for a variety of services in Escambia County, including public schools and police and fire protection.

The tribe currently pays the Escambia County Commission \$100,000 a year to spend as they see fit, based on a previous agreement.

"That was something that was done in 2007 when the situation was different," Stokes said.

State Rep. Jim Barton, R-Mobile, said the eventual answer might be to ask the governor to enter into a compact agreement with the tribe.

"We don't receive any tax revenue off that bingo. With a compact we could spell out what gaming would be allowed, tax and regulate it and move forward," Barton said.

"They do a lot for the community, provide thousands of jobs, and we should do what we can to work with them and expand what they're doing."

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